



**Department of Justice
U.S. Attorney's Office
Southern District of Texas**

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DEFENDANT IN FAKE FLU VACCINE CASE CONVICTED

HOUSTON, TX – Iyad Abu El Hawa, 36, of Houston, was convicted of health care fraud and misbranding of a drug, United States Attorney Don DeGabrielle announced today.

At a re-arraignment hearing this morning before United States District Judge Kenneth M. Hoyt, El Hawa pleaded guilty to the two federal felony offenses. He faces a maximum punishment of 10 years of imprisonment for the health care fraud conviction and a maximum of three (3) years of imprisonment for the misbranding a drug conviction. Sentencing has been set for December 4, 2006, at 10:00 a.m. El Hawa has been in federal custody since his arrest in October 2005 and will remain in federal custody.

The trial of El Hawa's co-defendant, Martha Denise Gonzales, 49, of Baytown, Texas, on the charges of health care fraud, product tampering and misbranding of a drug alleged in a 19-count superseding indictment, is scheduled to begin on September 18, 2006, before Judge Hoyt. She remains free on bond. **Gonzales is presumed innocent unless and until convicted through due process of law.**

The investigation that led to arrest and indictment of El Hawa began in October 2005 after the FBI received information that fake flu vaccine may have been given at a health fair sponsored by Exxon for its Baytown refinery employees. Laboratory analysis of several syringes recovered by investigating agents purported to contain the flu vaccine proved to contain sterile water.

El Hawa was originally indicted in November 2005 and charged with conspiring with Gonzales to dispense fake flu vaccine to elderly residents of nursing or assisted living homes and to approximately 1,100 employees of the Exxon Baytown plant. A superseding indictment included charges of health care fraud, product tampering and misbranding of a drug.

At this morning's hearing, El Hawa admitted his involvement in a scheme to defraud by offering and providing fake flu vaccine at health fairs in the Houston area. El Hawa – who had no formal training, education, work experience or licence for any position involving the prevention of communicable diseases – owned, controlled, or was associated with the following businesses that offered various medical services: Comfort & Caring Home Health, America Home Health Care Services, Universal Home Healthcare Services, and Universal Wound Care, all in Houston, and America Home Health Care Services in Baytown.

El Hawa conceded his part in a conspiracy that involved the purchasing of thousands of syringes and needles from an out-of-state company through the unauthorized use of a physician's name, and the "pre-loading" of the syringes with sterile water by one of his employees, who also had no medical background. Real vaccine is labeled with a bar code and lot number so that any inoculation can be traced back to the original manufacturer. El Hawa made several representations that these "pre-loaded" syringes contained real flu vaccine, using what he has admitted to be a fake bar code, which constitutes misbranding of a drug under federal law.

On October 14, 2005, these pre-loaded syringes were also used on more than a dozen Medicare and Medicaid beneficiaries residing at a Houston senior residence complex. Medicare and Medicaid were billed for the vaccine and the administration of the vaccine, again using, without authorization, the name and billing number of a physician.

The administration of fake vaccine to approximately 1,100 employees and contractors of Exxon occurred on October 19 and 20, 2005. Throughout the month of October, several health fairs were held at seniors' residential homes, including 14 persons residing at a senior citizen residential home in LaPorte, Texas, on October 21, 2006. Another flu vaccine fair was scheduled at a Louisiana church on October 22, 2006, but was canceled the day before. The fake flu vaccine was marketed to other states as well, including Colorado. No sales occurred.

Laboratory tests on several "pre-loaded" syringes recovered by investigating agents from several sources confirmed that the fluid contained in the syringes was not the flu vaccine, but rather a form of purified or sterile water. The FDA discovered no harmful substance in the water, nor any harmful bacteria on the syringes themselves.

Additionally, El Hawa's employee directed to "pre-load" the syringes used at the Exxon Health Fair in October 2005 voluntarily submitted to testing for blood borne pathogens. The results of those tests were negative for HIV and Hepatitis.

The investigation leading to the original indictment was conducted by the Federal Bureau of Investigation, the Food and Drug Administration Office of Criminal Investigations, the Department of Health and Human Services Office of Inspector General, the Texas Department of State Health Services and the Texas Attorney General's Medicaid Fraud Control Unit, with the assistance of the Harris County Public Health and Environmental Services.

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